

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BEVERLY T. PETERS,
individually and on behalf of all others
similarly situated,

PLAINTIFF

v.

ST. JOSEPH SERVICES CORP. d/b/a ST.
JOSEPH HEALTH SYSTEM and
ST. JOSEPH REGIONAL HEALTH
CENTER,

DEFENDANTS

CASE NO.: 4:14-cv-02872

JURY TRIAL DEMANDED

**PLAINTIFF'S NOTICE OF SUPPLEMENTAL
AUTHORITY IN SUPPORT OF HER RESPONSES IN OPPOSITION TO
DEFENDANTS' RULE 12(b)(1) AND RULE 12(b)(6) MOTIONS TO DISMISS**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Plaintiff, on behalf of herself and all others similarly situated, files this Notice of Supplemental Authority in Support of her Responses in Opposition to Defendants' Rule 12(b)(1) and Rule 12(b)(6) Motions to Dismiss (Doc. ##26 and 27), and respectfully shows the following:

Plaintiff filed her Responses in Opposition to both of Defendants' Motions to Dismiss (Doc. ##36 and 37) on August 29, 2014. Thereafter, the courts in *In re Adobe Systems, Inc. Privacy Litig.*, No. 13-CV-05226-LHK, 2014 WL 4379916 (N.D. Cal. Sept. 4, 2014) (Exhibit A), and *In re: Target Corporation Customer Data Security Breach Litig.*, No. 14-2522 (PAM/JJK), 2014 WL 7192478 (D. Minn. December 18, 2014) (Exhibit B), both of which are consumer data breach cases, issued opinions finding that plaintiffs had Article III standing to assert their claims. In doing so, the courts rejected arguments made by Defendants here.

The court, in *In re: Target Corporation Customer Data Security Breach Litig.*, also held that plaintiffs properly stated claims for negligence and breach of implied contract under Texas common law, as well as violations of the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE §17.46(b)(5); (b)(7). Here, Plaintiff asserts all of these causes of action in her First Amended Class Action Complaint (Doc. #22). *See id.*, Claims V, VIII and IX, respectively. The *Target* court's analysis of plaintiffs' unjust enrichment claim, citing *Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1328 (11th Cir. 2012) as Plaintiff does here, also supports Plaintiff's money had and received/assumpsit cause of action (Claim XIII) in reverse.

Plaintiff, therefore, commends these opinions to the Court, and respectfully requests that the Court (i) consider them in deciding Defendants' Rule 12(b)(1) and Rule 12(b)(6) Motions to Dismiss, (ii) deny Defendants' Motions, and (iii) grant such other and further relief to which Plaintiff is entitled.

Date: January 8, 2015

Respectfully submitted,

/s/ Richard L. Coffman

Richard L. Coffman

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of Plaintiff's Notice of Supplemental Authority in Support of Her Responses in Opposition to Defendants' Rule 12(b)(1) and Rule 12(b)(6) Motions to Dismiss was served on the following counsel of record, via the Court's ECF System, on January 8, 2015.

/s/ Richard L. Coffman
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